

HOUSE BILL 2592

By Gilmore

AN ACT to amend Tennessee Code Annotated, Title 16  
and Title 40, to create a "Tennessee Innocence  
Commission".

WHEREAS, since legislation was enacted that allows convicted persons to obtain postconviction DNA testing, including such a law in Tennessee in 2001, a number of people across the country have been exonerated of the crime for which they were convicted and released after serving several years in prison; and

WHEREAS, thorough, unbiased study and review in other states of cases in which wrongful convictions occurred has resulted in recommendations for significant reforms to the criminal justice system in order to avoid these wrongful convictions and executions, and Tennessee has not engaged in any such review of the state's criminal justice system; and

WHEREAS, it is the purpose of this legislation to statutorily create a Tennessee Innocence Commission whose responsibility it shall be to provide a mechanism for investigating situations where an innocent person is found to have been wrongly convicted and recommending procedures for correcting such situations; now therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40 , Chapter 30, is amended by adding the following new part 4:

§ 40-30-401. This part shall be known and may be cited as "Tennessee Innocence Commission".

§ 40-30-402.

There is created a "Tennessee Innocence Commission", which shall be administratively attached to the administrative office of the courts. The purpose of the Tennessee Innocence Commission is to investigate cases in which an innocent person

was wrongly convicted, to identify errors in the criminal justice process and recommend solutions to correct these errors.

§ 40-30-403.

(a) The commission shall be composed of nine (9) members. The governor shall appoint three (3) members, one (1) of whom must be a law enforcement officer. The attorney general and reporter shall appoint one (1) member, who must be an attorney who represents the state in the prosecution of felonies. The lieutenant governor and the speaker of the house of representatives shall each appoint one (1) member, who may, but are not required to be, members of the general assembly. The Tennessee supreme court chief justice shall appoint three (3) members, two (2) of which may, but are not required to be, retired members of the judiciary and one (1) of whom shall be a public defender.

(b) Each member shall serve a two-year term.

(c) The governor shall designate a member to serve as chair member of the commission.

§ 40-30-404.

(a) The commission shall investigate thoroughly all postconviction exonerations and pardons in the state to:

(1) Ascertain errors and defects in the criminal procedure used to prosecute the defendant's case at issue;

(2) Identify errors and defects in the criminal justice process in this state generally;

(3) Develop solutions and methods to correct the identified errors and defects; and

(4) Identify procedures and programs to prevent future wrongful

convictions.

(b) Students from accredited law schools in Tennessee may be utilized to assist with research for the commission.

(c) The commission may administer oaths and issue subpoenas, signed by the chair member, to compel the production of documents and the attendance of witnesses as considered necessary to conduct a thorough investigation. A subpoena of the commission shall be served by a law enforcement officer in the same manner in which trial court subpoenas are served. On application of the commission, a chancery court of Davidson County may upon hearing, compel compliance with the subpoena.

§ 40-30-405.

(a) The commission shall meet once every six (6) to eight (8) weeks if there are pending matters before the commission.

(b) The commission shall meet at such time and place as determined by the chair member announced at least one (1) month in advance of meetings with notice to each member and to the public.

(c) At all meetings, six (6) members shall constitute a quorum for the transaction of business.

(d) Voting may be in person, by proxy, by letter or by telephone. Any matter or proposition discussed shall not be binding upon the commission without the affirmative vote of a majority of the current membership of the commission.

(e) Written minutes shall be kept of all meetings.

(f) All research shall be organized and consolidated for future reference.

(g) The commission may hereafter adopt any additional rules as are necessary to carry out its objectives.

§ 40-30-406.

(a) The commission shall compile an annual report of its findings and recommendations, including any proposed legislation to implement procedures and programs to prevent future wrongful convictions or executions.

(b) The report shall be made available to the public upon request.

(c) The findings and recommendations contained in the report may not be used as evidence in a subsequent civil or criminal proceeding.

§ 40-30-407.

The commission shall submit the report compiled pursuant to § 40-30-406 to the governor, the lieutenant governor, and the speaker of the house of representatives no later than December of every year.

§ 40-30-408.

No later than sixty (60) days after the date of receipt of the report required by this part, the governor, lieutenant governor, and speaker of the house of representatives shall, individually or jointly, issue a formal written response to the findings and recommendations of the commission.

§ 40-30-409.

Members of the commission shall serve without compensation. They shall be reimbursed for their travel expenses. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 2. For the purpose of appointing the members of the Tennessee Innocence Commission, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on July 1, 2008, the public welfare requiring it.